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LEVINE BAGADE HAN, LLP
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OFFICE OF PETITIONS

In re Application of
Bryan Loomas, et. al.
Application No. 10/615,491
Filed: July 7, 2003
Attorney Docket No. BRONNE00600

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6).

This is a decision on the petition filed on September 29, 2006, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment. The delay in responding is regretted.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

It is noted that application Nos. 11/357,639, 10/978,505 and 10/633,902 all have filing dates later than the application for which priority is being claimed. A priority claim must be to a prior-filed application and not to a later filed application. Therefore, the amendment filed on September 29, 2006 is not acceptable.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226.



Frances Hicks
Petitions Examiner
Office of Petitions